

REMARKS/ARGUMENTS

1. **Claim Rejections - 35 U.S.C. § 102(b)** - Claims 1-21 were rejected under 35 U.S.C. §102(b) as being anticipated by the references of Raiford, Long, Martinez and Swearingen. In response the applicant has cancelled claims 1-21 and presents new claims 22-36.

New independent claim 22 describes the collar (12) as being comprised of a "gatherable material" and having an "inner border forming a neck opening" and "being positioned inside of said hoop" and spanning "inward of said hoop toward said inner border to terminate at said neck opening". Raiford has no collar of gatherable material forming a neck opening. Raiford has a napkin draped over a flexible hoop where the hoop is clamped directly on or around a wearer's neck. Depending on the tension applied by the hoop in Raiford, it could present an uncomfortable proposition for the wearer as assuming a snug sealing fit, the device of Raiford would have to clamp directly on the neck, and possibly cut off the wearer's blood and oxygen supply in a strangulating manner. Assuming a loose fit, food particles could easily breach the area between the top of the Raiford napkin and the wearer's neck, thereby soiling the wearer's clothes. The recited language in new claim 22 clearly defines over Raiford by presenting a solution where a collar of gatherable material positioned within the hoop forms a neck opening for contacting the neck and providing a snug sealing fit. The hoop is formed to have a circumference that is larger than the wearer's neck. The hoop thereby provides a means for tensioning the gatherable material of the collar around the neck, rather than having the majority of the hoop directly against the neck.

Still in reference to claim new 22, the references of Long and Martinez present similar shortcomings as Raiford, in that no collar of gatherable material forming a neck opening which spans inward of the hoop portion, is evident. Long and Martinez merely present more hoop-type devices which either offer the prospect of contacting the neck in a strangulating fashion or else lay around the neck, offering a breach area for food spillage.

Regarding Swearingen in terms of new claim 22, this reference also presents the same problems as Raiford, Long and Martinez. If Swearingen was applied to the neck, rather than the waist, as suggested by the Examiner in the instant Office action, depending on the amount of tension applied, the same issues of strangulation or too loose a fit would occur. The "collar" of Swearingen is not "positioned inside of said hoop" and does not span "inward of said hoop toward said inner border to terminate at said neck opening". The gathered material of Swearingen never advances into the interior of the hoop as claim 22 requires. Therefore, the orientation of the gathered material of Swearingen in relation to the hoop would never allow it to be tensioned against the neck by the hoop. As a result, the device of Swearingen is limited to again clamping about the neck in a strangulating manner or else being too loose and allowing food particles to travel through the gap between the neck and hoop of Swearingen.

Claims 23-28 are dependent on claim 22, and, based upon the arguments just presented for the allowability of claim 22, are *a fortiori* patentable.

Regarding new independent claim 29, this claim recites the element of: "said collar further being positioned within the interior area of a flexible hoop, said hoop being formed to lie fittingly upon the chest and shoulders of a human wearer ." Here, the collar is described as being positioned within the hoop's interior area. The references of Raiford, Long, Martinez and Swearingen do not describe the feature of a collar positioned within a hoop's interior area. Further, these references do not show a hoop that is formed to lie fittingly upon the shoulder's of a wearer. The hoops of these references have no form fitting qualities of any kind, and therefore are not designed to lie fittingly upon the chest and shoulders of a wearer. Due to these cited defining elements, claim 29 is novel over the cited references.

Claims 30-35 are dependent on claim 29, and, based upon the arguments just presented for the allowability of claim 29, are *a fortiori* patentable

Independent claim 36 again claims the element of a "collar including an area spanning inward of said hoop and terminating at an interior neck opening". This interior collar, as

discussed previously, is not present in the references of Raiford, Long, Martinez and Swearingen. Further, claim 36 describes the encircling tension imposed upon the interior collar by the hoop, the hoop bringing the interior collar, into contact with a wearer's neck. As noted previously, with Raiford, Long, Martinez and Swearingen due to their construction, if these prior art devices were operated in a tensioned, rather than a loose fitting manner, they would likely provide discomfort at the very least to a wearer and strangulation in the worst case. In claim 36, the encircling tension is imparted on the interior collar by the hoop and not directly upon the neck of a wearer.

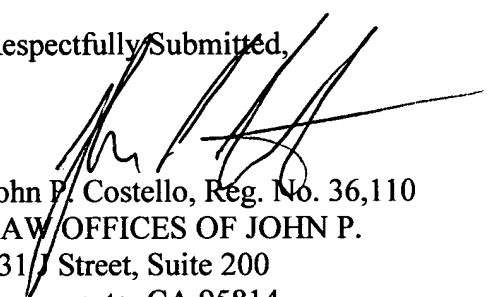
2. **Claim Rejections - 35 U.S.C. § 103(a)** - Claims 7, 16, and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Raiford in view of Swearingen. In response, the applicant has cancelled these claims relating to the elasticized neck opening element. The applicant presents claims 26 and 33, having the element of an elastic band at the neck opening, which are dependent upon independent claims 22 and 29, respectively. Claims 22 and 29 are not obvious in view of these two references because they recite the gatherable collar located within the hoop for placing tension on the collar to bring the majority of the collar, rather than the hoop, in contact with a wearer's neck. As argued above, these elements allow the protective bib to be worn in both a non-strangulating and sealing manner to avoid food spillage. The references of Raiford and Swearingen taken singly or in combination do not suggest or teach the elements of claims 22 and 29. As such, claims 22 and 29 are patentable and claims 26 and 33 being dependent claims are *a fortiori* patentable.

3. The undersigned, an attorney licensed to practice before the Patent and Trademark Office requests that the examiner find the present application in a condition for allowance, and any questions regarding this response be directed to the Applicant's attorney at (916) 441-2234.

[SIGNATURE PAGE]

Dated: June 2, 2004

Respectfully Submitted,



John P. Costello, Reg. No. 36,110
LAW OFFICES OF JOHN P.
331 J Street, Suite 200
Sacramento, CA 95814
(916) 441-2234